

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR I – 2017/2018

LEGAL SYSTEM OF SRI LANKA

(Three Hours)

Total Number of Questions: 07

Answer any **FOUR (04)** questions and **no more**.

(Candidates will be penalized for illegible handwriting)

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01. “Although Sri Lanka has been influenced by foreign laws, the law of Sri Lanka still strongly preserves its indigenous tradition through the customary laws. Consequently, there is an interaction of various laws in Sri Lankan society.”

Discuss the above statement in the light of pros and cons of a plural legal system of a country with special reference to Sri Lanka. Your answer must be supported by citing relevant constitutional and statutory provisions and case law.

02. The present court system of Sri Lanka reflects not only the characteristics of the ancient judicial system of Sri Lanka, but also the colonial court structures. However, there is now a comprehensive system of courts with clearly defined jurisdictions operating in the country.

Comment on the above statement highlighting the various jurisdictions of the current courts of first instance and courts with appellate jurisdiction.

03. "The post-independence period has given Roman Dutch law a new lease of life, so that it has re-emerged as the dominant system of private law, subject only to statutory change."

(Prof. Savitri Goonesekere, 'The Roman Dutch Law in the Plural Legal System of Sri Lanka', *The Colombo Law Review*, Vol. 9, 1998, at p. 30)

Do you agree with the above statement in relation to the role of Roman Dutch Law in the Sri Lankan Legal System? Support your answer with relevant case law and statutory authorities.

04. "The question that arises for consideration in this reference is whether the tort of conversion, which is really alien to the Roman-Dutch law of delict, has been received into our legal system. There are two methods in which such a law could be introduced into the law of Ceylon - either by statutory provision or by an unbroken line of judicial decision which recognized such a law."

(Alles J. *Lily de Costa v Bank of Ceylon* (1969) 72 NLR 457 in at 493)

Discuss the various methods of incorporating English law into the legal system of Sri Lanka by way of legislation, in the light of the above statement. Support your answer with relevant case law and statutory authorities.

05. Answer **both** (A) and (B).

(A) Muslim law as applied in Sri Lanka contains usages and customs peculiar to local Muslims and which do not form a part of the Islamic system of jurisprudence.

Do you agree with the above statement? Support your answer, citing relevant case law.

(B) Azath is a well known businessman and married Fahmiya in 2011. The marriage was a happy one until Azath started an extramarital relationship with Sofia in 2015. Fahmiya came to know about Azath's extramarital relationship and filed an application for a divorce in the Quazi Court. However, Azath converted to Christianity and married Sofia under the general law of marriage. Subsequently, Fahmiya lodged a complaint to the Police that Azath has contracted a second marriage without obtaining a divorce from the Quazi Court.

Azath is seeking your advice on the following:

- (i) The validity of his second marriage;
- (ii) The legality of a Muslim wife's complaint to the Police relating to the second marriage of her husband;

Advise Azath.

06. Selvaraj was born in Jaffna to Tamil parents who had been living there for generations. Selvaraj met Sadani at Peradeniya University and they fell in love with each other. Sadani is the only child of Kandyan parents. After the graduation, Selvaraj and Sadani got teaching appointments in Colombo. A few years afterwards, they married in Kandy under the General Marriage Ordinance. After the marriage, the couple rented a house in Dehiwala. During this time, Selvaraj and Sadani regularly visited Selvaraj's parents in Jaffna and Selvaraj invested in the real estate business in Jaffna with his brother. Recently, Selvaraj's brother suggested that they buy a ten million rupee agricultural land in Jaffna as co-owners.

Selvaraj wishes to know the law applicable to him in the distribution of his estate in the event of intestacy and what impact this would have on his wife; Sadani.

Advise Selvaraj and Sadani. Your legal opinion must be supported by relevant statutory and case law authorities.

07. Seetha was born to Kandyan Parents in 1960. After her primary and secondary education in Kandy, she moved to Colombo to seek employment. While she was working in a company in Colombo, she met Sarath. Sarath's parents reside in Peradeniya and he is a child of a marriage between a Kandyan and a non-Kandyan. His father is originally from Galle and he contracted a binna marriage with Sarath's mother in 1948. She was the only daughter of a wealthy Kandyan family. Sarath and Seetha married in 1985 under the Kandyan law. Recently, Sarath was told by Amal; a law student that his marriage is not legally valid. Amal's argument is Sarath is not a Kandyan and therefore, Sarath and Seetha could not register and solemnize their marriage under the Kandyan Law.

Considering the above facts, advise Seetha and Sarath on the legality of their marriage. Your answer must be supported by statutory and case law authorities.